

Before the  
**Federal Communications Commission**  
Washington DC 20554

In the Matter of	)	
	)	
Amendment of Part 90 of the Communication's Rules	)	
and Policies for Applications and Licensing of Low	)	WT Docket No. 01-146
Power Operations in the Private Land Mobile	)	
Radio 450-470 MHz Band	)	

**REPLY COMMENTS OF  
THE UNITED TELECOM COUNCIL**

Pursuant to Section 1.415 of the rules of the Federal Communications Commission (FCC or Commission), 47 C.F.R. § 1.415, the United Telecom Council (UTC, the Council) hereby submits these reply comments in the above-captioned proceeding.<sup>1</sup>

**I. Many Commenters Urge Greater Accommodation for Increasing Numbers of Data Systems.**

Several commenters agree with UTC that the proposal included in the Notice does not reflect substantial changes in the land mobile marketplace. Stemming as it does from a proposal first submitted in 1997, the NPR does not offer sufficient spectrum for mobile or fixed data operations. For instance, Dataradio Cor, LTD (Dataradio), noting the “explosive” growth in wireless data communications over the past years, stated that there is an acute need and demand for fixed wireless data required by Public Safety sector entities such as utilities (electric power generation and distribution), transportation (railroad),

energy (oil and gas), freshwater and wastewater sectors (Dataradio at 3).

Dataradio noted further that these sectors have a growing reliance on data communications for critical operations pertaining to safety and security. Related to the security issue, Dataradio interestingly cites the FBI's demand for a higher state of monitoring and security for the aforementioned entities.

The Association of American Railroads (AAR), citing its role as frequency coordinator for the nation's railroads, also noted the increased demand for data channels and agreed with UTC concerning the need for a greater number of channel pairs for emerging wireless data applications, especially in critical infrastructure industries such as electricity, gas, pipeline and railroad operations (AAR at 3-4). Trimble Navigation Limited (Trimble) stated that 1) the LMCC consensus plan underestimates the spectrum needs of data users licensed in the 450-470 MHz band and 2) given the numerous safety functions that the data user community provides on a daily basis, the existing shortage of data spectrum has significant public interest consequences (Trimble at 3).<sup>2</sup>

Enalysis Corporation, Motorola and Dataradio noted that in the four years since the LMCC developed its Consensus Plan, the needs of private wireless users have changed significantly. Users are dependent on data and migrating to digital technologies, both more spectrally efficient than traditional voice (Enalysis at 3, Motorola at 3, Dataradio at 2-3). Dataradio notes that a review of the

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<sup>1</sup> *Notice of Proposed Rulemaking*, WT Docket No. 01-146, released July 24, 2001, 66 FR 47435 (Sept. 12, 2001) ("NPR", "the Notice").

<sup>2</sup> However, UTC disagrees with Trimble's assertion that all voice transmissions be barred from Group B frequencies; instead, to accommodate technologies, voice operations should be permitted only as necessary to support the primary data functions of systems on the Group B frequencies.

Commission's licensing database demonstrates that a large number of users have been licensed for non-voice communications on the Group A channels, the result being that none of the Group A channels could be voice-exclusive (Dataradio at 4).

UTC reiterates its recommendation, similar to that offered by Motorola (Motorola at 3), that the FCC revise §90.187 of the Commission's Rules to permit protected contours for continuous-carrier mobile and fixed data systems under specific circumstances. This minor revision should serve to provide flexibility in the low-power pool to meet the demand for additional data systems, without disrupting the FCC's overall proposal for the pool frequencies.

UTC believes that this amendment to the Rules is advisable across the refarmed bands; however, as noted in our original comments, the Council recognizes that extending such a change to non-low-power frequencies may require a separate proceeding.<sup>3</sup>

UTC disagrees strongly that consideration of such a rule change for low-power frequencies is outside the scope of this proceeding. The FCC itself requested comment on "whether Group A should continue to be designated primarily for voice operations with non-voice operations authorized on a secondary basis or if non-voice operations should be limited to Group B" (*Notice* at ¶18); and "whether we should allow continuous data transmissions on these channels" (*Id.* at ¶ 19). UTC believes that its proposed solution answers both of these questions.

Extension of protected contours to fixed and mobile data systems, subject to contour analysis and consent requirements, will resolve an inequity in the Rules: that certain trunked voice systems are entitled to protection based on their increased efficiency, while much more efficient data systems are not. The rule change also recognizes the technical fact that data systems operate more efficiently in a continuous-carrier mode, as well as the operational fact that sufficient spectrum for mission-critical mobile and fixed data systems is not available under current rules. UTC therefore concurs with all commenters urging additional flexibility for data systems in the low-power pool.

## **II. Antenna Height Restrictions Should Be Equivalent Between Groups A and B.**

In its original comments, UTC was among those commenters recommending that maximum power levels for voice and data frequencies in the low-power pool be equivalent. However, the Council's comments neglected to discuss corresponding equivalencies for antenna height limitations. Regarding this issue, UTC concurs with Dataradio that base station equipment for either voice or data applications should be subject to equivalent maximum antenna height (Dataradio at 6).

## **III. Grandfathering Provisions Affecting Licensed High Power Systems**

A few commenters recommend that the Commission expand its proposed grandfathering provision, or indefinitely grandfather, high power incumbents operating outside the top 100 urban areas on the 40 geographically sensitive

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<sup>3</sup>Should the Commission determine that a separate proceeding is needed to apply the concept to all 150-512 MHz Part 90 frequencies, UTC urges that such a proceeding be launched

channels in Group A of the Industrial/Business pool (see, e.g., ITA Comments at 3). UTC reiterates that high-power licensees should be grandfathered for a maximum of five years or until the expiration of their license term, whichever is shorter. Given the larger coverage area of such systems, indefinite protection serves to reduce greatly the availability of limited number of low-power channels available.

**WHEREFORE, THE PREMISES CONSIDERED,** UTC respectfully requests that the Commission issue a final order in this proceeding consistent with the positions set forth above.

Respectfully submitted,

By: \_\_\_\_\_/S/\_\_\_\_\_  
Jill M. Lyon  
VP & General Counsel  
United Telecom Council  
1901 Pennsylvania Ave., N.W.  
Fifth Floor  
Washington, DC 20006  
(202) 872-0030

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expeditiously.